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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,065	02/09/2006	Martin Guels	101643.55963US	4756

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

MAIL DATE	DELIVERY MODE
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10/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/527,065	GUELS, MARTIN	
	Examiner	Art Unit	
	Shelley Self	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed on August 13, 2007 has been considered but is ineffective to overcome the prior art reference.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 12- are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As noted in the previous Office Action regarding claim 12, the recitation, "their" (line 7) renders the claim indefinite. Examiner suggests clear and positive recitation to the structure/limitation to what, "their" refers.

With regard to claim 14, there is no antecedent basis for the recitation, "direct fastening means"; is this the same as the means for detachable mounting? Clarification is required.

With regard to claims 15 and 16, there is insufficient antecedent basis for the recitation, "the knife" as it is not clear what knife, i.e., the chipping or the slabbing knife is being referred to as "the knife" (line 3).

With regard to claim 17, there is insufficient antecedent basis for the recitation, "the knife mounting faces", Examiner notes a chipping knife mounting face and a slabbing knife mounting face of the holder recited in the parent claim 12, therefore it is unclear as to whether the recitation, "the knife mounting faces" refers to the chipping knife mounting face of the holder,

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the slabbing knife mounting face of the holder or both, the chipping and slabbing mounting faces of the holder. Clarification is required.

With regard to claim 18, lines 13-14 are not clear. It is unclear what is meant by, "...means for detachable mounting fasten secure the chipping knife..." Clarification is required.

Further regarding claim 18, lines 21-22 are particularly confusing. The claim states, "the knife" however both a chipping and slabbing knife have each been previously positively recited, therefore it is unclear what knife, i.e., the chipping, the slabbing or both are being referred to as "the knife". Additionally line 22, states, "a knife" is this knife different from either the chipping or slabbing knife? Or is "a knife" one of the two positively (chipping, slabbing) recited knives? If different how does this knife relate to the rest of the positively recited limitations? Likewise the same confusion results regarding claim 23. Clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

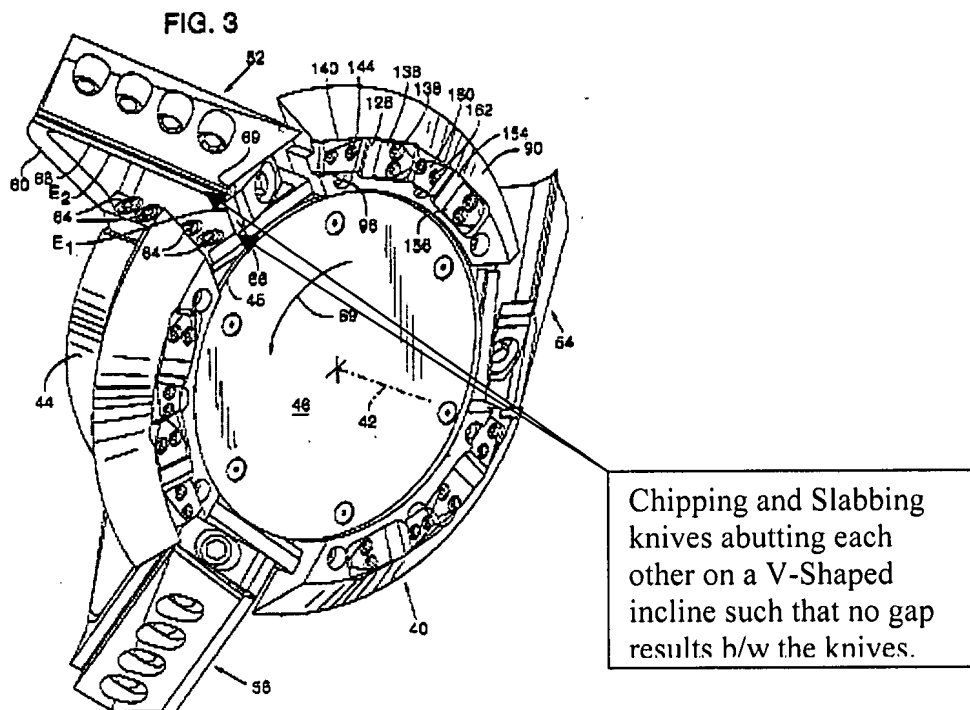
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12 as best as can be understood are rejected under 35 U.S.C. 102(b) as being anticipated by Toogood (RE36, 659). With regard to claims 12 and 18-23, Toogood substantially discloses the claimed invention as set forth in claim 12. Toogood discloses a knife holder, for a knife tool head, the holder having mounting faces for a pair of knives, a chipping knife and slapping knife (66, 68), means for detachable mounting fasten the chipping knife and

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the slabbing knife to the holder, the chipping knife and the slabbing knife having knife contact faces inclined in a V-shape and arranged such that when mounted on the knives' respective holder body mounting faces, the knives' contact faces abut one another along the knives' respective inclined V-shape contact faces such that no gap is formed (fig. 3).



With regard to claim 13, as best a can be understood, Toogood teaches a one-piece holder (60) construction.

With regard to claim 14, as best as can be understood, Toogood discloses screws (fig. 4).

With regard to claim 17 as best as can be understood, Toogood discloses wherein holder fastening means are provided laterally next to the knife mounting faces of the knife holder.

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With regard to claim 20, as best as can be understood Toogood discloses a plurality of knife holders.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 and 16 as best as can be understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Toogood (RE36, 659). With regard to claims 15 and 16, Toogood does not explicitly disclose an angle formed by cutting edge of the chipping knife and slabbing knife between 130° and 230° or 80° and 180°. The specific selection or determination of the angle between the chipping knife and the slabbing knife is the result of routine experimentation and would have been obvious at the time of the invention one having ordinary skill in the art to construct Toogood having angles between 130° and 230° or 80° and 180° because it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Arguments

Applicant's arguments have been carefully considered but are moot in view of the new ground(s) of rejection. Applicant's remarks are drawn to the failure of the prior art Carpenter to disclose or fairly suggest "the chipping knife and the slabbing knife each having knife contact

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faces inclined in a V-shape and arranged such that when mounted on the knives' respective holder hold mounting faces, the knives' contact faces abut one another along the knives' respective inclined V-shape contact faces such that no gap is formed between the contact faces as the knives cutting edges wear". Examiner agrees, Carpenter fails to disclose this feature, however Toogood teaches this construction, therefore a rejection in view of Toogood is made.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

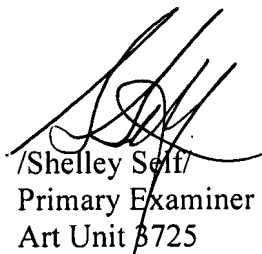
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


/Shelley Self/
Primary Examiner
Art Unit 3725

October 4, 2007